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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,106	02/27/2002	Robert Allan Unger	SNY-R-976	6776
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MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2424	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/084,106

**Applicant(s)**

UNGER, ROBERT ALLAN

**Examiner**

ANNAN Q. SHANG

**Art Unit**

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date 12/24/09; 04/08/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/15/10 has been entered.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-43** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. **The claims refer to a method that would not require any particular machine or apparatus to be performed and therefore are not considered to be in one of the statutory categories.**

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-51 have been considered but are moot in view of the new ground(s) of rejection using the primary prior art of record **Blatter et al (5,838,873)**. **As further shown above, claims 1-43 are hereby rejected under 35 U.S.C. 101**

With respect to the rejection of the last office action mailed 10/16/10, Applicant discusses the prior arts of record and further argues that the prior arts of record do not teach the claims limitations and that the Examiner has over-broadened the actual disclosure of the Blatter reference and that the secondary reference, Herley does not overcome the deficiencies in Blatter. Furthermore Applicant appears to indicate that the 103(a) rejection using the Blatter in view of Herley, a technical error in the Examiner position regarding the teachings of Herley (see page 12+ of Applicant's Remarks).

In response, Examiner has provided a new ground(s) of rejection, i.e., 103(a) rejection using Blatter. As clearly illustrated in the office action, **Blatter teaches Head end "HE", Broadcaster "BC", Transport System "TS" 25**; constructing a program association table (PAT) that associates programs with primary PIDs; constructing a plurality of program map tables (PMT), one for each program in the PAT (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+). **The HE, BC or TS-25, constructs a lookup table that maps at least one primary PID (Base PID) that identifies a portion of a program (Broadcast programs) encrypted under a first encryption system to at least one shadow PID that identifies a duplicate of the same portion of the program encrypted under a second encryption system** (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+); and broadcasting the PAT, the PMTs and the lookup table over the content delivery medium (col.3, lines 46-49, col.4, line 35-col.5, line 54 and col.7, line 62-col.8, line 67 and col.9, line 23-col.11, line 1+). **Blatter teaches that the CAT holds encrypted codes of the PIDs (the Base PID**

and Base PID-offset value) of the program and where the TS-25 further and multiplexes the data over a communication medium to various devices (Computers, HDTV Receivers, various types storage devices, etc.) on the network. Blatter further discloses Transport System (TS) 25 (a Gateway Server or Broadcast Server), which further receives these encrypted MPEG streams decrypts that packets for presentation and further creates or generates PIDs, PAT, PMTs, CATs, etc., and further encrypts the data for stored/retrieval and further performs various processes of encrypting/decrypting of the data packets for communication and presentation on devices on the network. Blatter discloses encrypting broadcast programs two or more times, but does not clearly disclose that the same portion of the program is encrypted under a second encryption system. However, **Blatter clearly discloses a system which encrypting broadcast programs two or more times** (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+). Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Blatter to further encrypt the same portion or duplicates of the program to provide additional security to the broadcast content. **This office action is non-final.**

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Blatter et al (5,838,873)**.

As to claim 1, **Blatter** discloses packetized data formats for digital data storage media and further discloses a method of providing multiple packet identifier (PID) information for a multiple carriage content delivery system, comprising:

(Head end "HE", Broadcaster "BC", Transport System "TS" 25) Constructing a program association table (PAT) that associates programs with primary PIDs; constructing a plurality of program map tables (PMT), one for each program in the PAT (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+);

(HE, BC or TS-25) Constructing a lookup table that maps at least one primary PID (Base PID) that identifies a portion of a program (Broadcast programs) encrypted under a first encryption system to at least one shadow PID that identifies a duplicate of the same portion of the program encrypted under a second encryption system (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+); and broadcasting the PAT, the PMTs and the lookup table over the content delivery medium (col.3, lines 46-49, col.4, line 35-col.5, line 54 and col.7, line 62-col.8, line 67 and col.9, line 23-col.11, line 1+); note that the CAT holds encrypted codes of the PIDs (the Base PID and Base PID-offset value of the program and TS-25 further creates or generates PIDs, PAT, PMTs, CATs, etc., and further encrypts the data for stored/retrieval and multiplexes the data over a communication

medium to various devices (Computers, HDTV Receivers, various types storage devices, etc.) on the network.

Blatter discloses encrypting broadcast programs two or more times, but does not clearly disclose that the **same portion of the program or duplicate of the program** is encrypted under a second encryption system.

However, **Blatter clearly discloses a system which encrypting broadcast programs two or more times** (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+)

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Blatter to further encrypt the same portion or duplicates of the program to provide additional security to the broadcast content.

As to claim 2, Blatter further discloses where the lookup table is broadcast as one or more MPEG user private data packets (col.10, lines 25-33, col.11, lines 46-57, col.12, line 27-col.13, line 1+).

As to claim 3, Blatter further discloses where it is carried out at a cable television system (col.2, lines 38-65 and col.3, lines 46-49, col.4, line 35).

As to claim 4, **Blatter** further discloses a method of demultiplexing a data stream having multiple packet identifiers for a program, comprising:

Receiving (fig.1) a program association table (PAT) that associates programs with primary PIDs; receiving a program map table (PMT); receiving a lookup table relating primary PIDs to shadow PIDs (col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+);

Determining (Controller 115), from the PMT and the lookup table that a program is associated with both a primary PID that identifies a portion of the program encrypted under a first encryption system and a shadow PID that identifies a duplicate of the same portion of the program encrypted under a second encryption system; and setting a PID filter to permit passage of packets having both primary and shadow PIDs (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+); and broadcasting the PAT, the PMTs and the lookup table over the content delivery medium (col.3, lines 46-49, col.4, line 35-col.5, line 54 and col.7, line 62-col.8, line 67 and col.9, line 23-col.11, line 1+); note that the CAT holds encrypted codes of the PIDs (the Base PID and Base PID-offset value of the program and TS-25 further creates or generates PIDs, PAT, PMTs, CATs, etc., and further encrypts the data for stored/retrieval and multiplexes the data over a communication medium to various devices (Computers, HDTV Receivers, various types storage devices, etc.) on the network.

Blatter discloses encrypting broadcast programs two or more times, but does not clearly disclose that the **same portion of the program or duplicate of the program** is encrypted under a second encryption system.

However, **Blatter clearly discloses a system which encrypting broadcast programs two or more times** (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+)

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Blatter to further encrypt the same portion or



duplicates of the program to provide additional security to the broadcast content.

As to claim 5, Blatter further discloses further comprising establishing a demultiplexer output path for both the primary PID and the shadow PID (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+)

As to claim 6, Blatter further discloses where the lookup table contains a shadow PID for a shadow entitlement control message (ECM), and further comprising initializing a decrypter using the shadow ECM (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 7, Blatter further discloses where it is carried out in a television set-top box (fig.1).

As to claim 8, **Blatter** further discloses a method of constructing a stream of data packets having related primary and shadow packet identifiers (PIDs), the packets having headers and payloads, comprising:

A micro computer (Controller 'C' 115); a first primary packet buffer and a second primary packet buffer (Buffer 60);

A demultiplexer, receiving an incoming data stream having packets with the related primary and shadow PIDs; where the related primary and shadow PIDs each identify duplicated portions of a program encrypted under a first encryption system and a second encryption system respectively; providing a stream of packets having the primary PID to a first buffer (Buffer 60) col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+);

Detecting (C-115) a packet having the shadow PID and a shadow payload in the

incoming data stream; switching the stream of packets having the primary PID to a second buffer (Buffer 60) in response to the detecting; and searching (C-115) a last packet stored in the first buffer for a packet corresponding to the packet having the shadow PID (col.3, lines 46-49, col.4, line 35-col.5, line 54 and col.7, line 62-col.8, line 67 and col.9, line 23-col.11, line 1+); note that the CAT holds encrypted codes of the PIDs (the Base PID and Base PID-offset value of the program and TS-25 further creates or generates PIDs, PAT, PMTs, CATs, etc., and further encrypts the data for stored/retrieval and multiplexes the data over a communication medium to various devices (Computers, HDTV Receivers, various types storage devices, etc.) on the network.

Blatter discloses encrypting broadcast programs two or more times, but does not clearly disclose that the **same portion of the program or duplicate of the program** is encrypted under a second encryption system.

However, **Blatter clearly discloses a system which encrypting broadcast programs two or more times** (col.2, lines 38-65, col.3, lines 46-49, col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+)

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Blatter to further encrypt the same portion or duplicates of the program to provide additional security to the broadcast content.

As to claim 9, Blatter further discloses generating an interrupt as a result of detecting the packet having the shadow PID (col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 10, Blatter further discloses switching is carried out in response to the interrupt (col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 11, Blatter further discloses generating a packet having the primary PID and the shadow payload (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 12, Blatter further discloses generating comprises substituting the primary PID for the shadow PID into the packet having the shadow PID (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 13, Blatter further discloses the generating comprises substituting the shadow payload into the matching packet (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 14, Blatter further discloses where the corresponding packets have the matching sequence number (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 15, Blatter further discloses where the corresponding packets are encrypted under two different encryption techniques (col.4, line 35-col.5, line 54, col.8, line 16-53 and col.9, line 23-col.10, line 1+).

As to claim 16, the claimed "A storage medium storing instructions which, when executed on a programmed processor..." is met as previously discussed with respect to claim 8.

As to claim 17, the claimed "A method of constructing a stream of data packets having primary and shadow packet identifiers (PIDs), the packets having headers and

payloads..." is composed of the same structural elements that were discussed with respect to the rejection of claim 8.

Claim 18 is met as previously discussed with respect to claim 9.

Claim 19 is met as previously discussed with respect to claim 10.

Claim 20 is met as previously discussed with respect to claim 11.

Claim 21 is met as previously discussed with respect to claim 12.

Claim 22 is met as previously discussed with respect to claim 13.

Claim 23 is met as previously discussed with respect to claim 14.

Claim 24 is met as previously discussed with respect to claim 15.

Claim 25 is met as previously discussed with respect to claim 16.

As to claim 26, the claimed "A method of constructing a stream of data packets having primary and shadow packet identifiers (PIDs), the packets having headers and payloads...." is composed of the same structural elements that were discussed with respect to the rejection of claim 8.

Claim 27 is met as previously discussed with respect to claim 9.

Claim 28 is met as previously discussed with respect to claim 10.

Claim 29 is met as previously discussed with respect to claim 11.

Claim 30 is met as previously discussed with respect to claim 12.

Claim 31 is met as previously discussed with respect to claim 13.

Claim 32 is met as previously discussed with respect to claim 14.

Claim 33 is met as previously discussed with respect to claim 15.

Claim 34 is met as previously discussed with respect to claim 16.

As to claim 35 "A method of constructing a stream of data packets having primary and shadow packet identifiers (PIDs), the packets having headers and payloads..." is composed of the same structural elements that were discussed with respect to the rejection of claim 8.

Claim 36 is met as previously discussed with respect to claim 9.

Claim 37 is met as previously discussed with respect to claim 10.

Claim 38 is met as previously discussed with respect to claim 11.

Claim 39 is met as previously discussed with respect to claim 12.

Claim 40 is met as previously discussed with respect to claim 13.

Claim 41 is met as previously discussed with respect to claim 14.

Claim 42 is met as previously discussed with respect to claim 15.

Claim 43 is met as previously discussed with respect to claim 16.

As to claim 44, the claimed "A digital receiver apparatus that reconstitutes/reconstructs a stream of data packets..." is composed of the same structural elements that were discussed with respect to the rejection of claim 8.

Claim 45 is met as previously discussed with respect to claim 11.

Claim 46 is met as previously discussed with respect to claim 12.

Claim 47 is met as previously discussed with respect to claim 13.

Claim 48 is met as previously discussed with respect to claim 14.

Claim 49 is met as previously discussed with respect to claim 15.

As to claim 50, Blatter further discloses where the program means comprises means for reading a DMA register (col.5, line 47-col.6, line 53).

Claim 51 is met as previously discussed with respect to claim 7.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANNAN Q. SHANG** whose telephone number is **(571)272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/  
Primary Examiner, Art Unit 2424

**Annan Q Shang**